

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL NO. 5:10CV168-V
(5:07CR04)

JOSHUA PETER THOMAS SHIELDS,)
)
) Petitioner,
)
) vs.
)
UNITED STATES OF AMERICA,)
)
) Respondent.
)

GOVERNMENT'S MOTION TO DISMISS

NOW COMES THE UNITED STATES OF AMERICA, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, and, pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure, moves to dismiss Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to Title 28, United States Code, Section 2255, filed herein on September 29, 2010. In support of its Motion to Dismiss, the United States hereby incorporates by reference its Answer in Opposition to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence.

For the reasons stated in the Government's Answer in Opposition to Petitioner's § 2255 Motion, the Government respectfully requests that this Court dispense with an evidentiary hearing and summarily dismiss this action with prejudice.

RESPECTFULLY SUBMITTED, this 31st day of March, 2011.

ANNE M. TOMPKINS
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing ***Government's Motion to Dismiss*** will be served upon the Petitioner by serving his attorney of record, M. Gordon Widenhouse, Jr., through electronic case filing at mgwidenhouse@rwf-law.com.

This, the 31st day of March, 2011.

ANNE M. TOMPKINS
UNITED STATES ATTORNEY

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